

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 676

Introduced by Senator Ortiz

February 21, 2003

An act to add Part 5.5 (commencing with Section 105500) to Division 103 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 676, as amended, Ortiz. Tobacco products: health care costs: tobacco manufacturer fees.

Existing law imposes various fees for the conduct of business in the state and imposes specified taxes on cigarettes and tobacco products.

This bill would, on and after January 1, 2005, impose a fee, to be determined by the State Department of Health Services by regulation as prescribed, on specified tobacco product manufacturers.

The bill would create the Tobacco-Related Health Care Costs Trust Fund, to receive moneys derived from the imposition of the fee. Upon appropriation by the Legislature, the money in the fund would be expended to reimburse the state and local governments for the costs of treating individuals ~~with~~ *for* tobacco-related illnesses and diseases.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Taxpayers' Tobacco Relief Act of 2003.

3 SEC. 2. Part 5.5 (commencing with Section 105500) is added
4 to Division 103 of the Health and Safety Code, to read:
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1 PART 5.5. TOBACCO-RELATED HEALTH CARE COST
2 RECOVERY
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4 CHAPTER 1. GENERAL *PROVISIONS*
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6 105500. The Legislature finds and declares all of the
7 following:

8 (a) The state and local governments spend hundreds of millions
9 of dollars each year to treat Californians who suffer from illnesses
10 and disease caused by the use of tobacco products such as
11 cigarettes and smokeless tobacco.

12 (b) Research shows that 16.2 percent of Medi-Cal costs can be
13 attributed to smoking-related illnesses alone.

14 (c) The economic burden of smoking in California totals \$15.8
15 billion per year, costs equal to \$475 for every Californian and more
16 than \$3,300 per smoker.

17 (d) California's direct medical costs of smoking equal \$8.6
18 billion per year.

19 (e) Eighty-nine percent of Americans who smoke began
20 smoking before they were old enough to make an informed
21 decision about the risks they were incurring.

22 (f) Internal tobacco manufacturers' documents dating back to
23 the 1950s demonstrate that manufacturers were fully aware of the
24 addictive nature of their products, yet repeatedly denied it and
25 sought to discredit the numerous studies that proved nicotine is an
26 addictive drug.

27 (g) Manufacturers of tobacco products should be held
28 financially liable for the adverse health effects of their products.

29 105505. It is the intent of the Legislature to impose regulatory
30 fees pursuant to this part within the limitation approved by the
31 court in *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15
32 Cal.4th 866.

33 105510. For purposes of this part, the following definitions
34 apply:

35 (a) "Department" means the State Department of Health
36 Services.

37 (b) "Fund" means the Tobacco-Related Health Care Costs
38 Trust Fund created by Section 105530.

39 (c) "Tobacco-related illness and disease" includes, but is not
40 limited to, coronary heart disease, cerebrovascular disease,

1 cancers, chronic obstructive lung disease, and other conditions or
2 diseases for which smoking or tobacco use has been established to
3 be a risk factor for excess disability and illness.

4 (d) “Tobacco product” means cigarettes and all forms of
5 cigars, smoking tobacco, chewing tobacco, snuff, and any other
6 articles or products made of, or containing, at least 50 percent
7 tobacco.

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9 CHAPTER 2. TOBACCO PRODUCTS FEE

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11 105520. (a) On and after January 1, 2005, each person
12 currently manufacturing tobacco products, or who has previously
13 manufactured tobacco products, or both, that have significantly
14 contributed or currently contribute, or both, to tobacco-related
15 illnesses and diseases shall pay a fee as set forth in this part.

16 (b) On or before January 1, 2005, the department shall, by
17 regulation, establish specific fees to be assessed on a person
18 described in subdivision (a) based on both of the following factors:

19 (1) The annual cost to the state and local governments to treat
20 individuals ~~with~~ *for* tobacco-related illnesses and diseases, minus
21 any revenues received by the state and local governments as a
22 result of tobacco taxes, federal legislation, or lawsuits against
23 manufacturers of tobacco products if the revenues are specifically
24 earmarked to reimburse the state and local governments for the
25 cost of treating individuals with tobacco-related illnesses and
26 diseases.

27 (2) The manufacturer’s share of the California tobacco
28 products market as determined by the department.

29 (c) (1) The department shall annually adjust the fee to reflect
30 all of the following:

31 (A) Any change in the annual cost to the state and local
32 governments to treat individuals ~~with~~ *for* tobacco-related illnesses
33 and diseases.

34 (B) Any change in the revenue received by the state and local
35 governments from the tobacco tax, federal legislation, or lawsuits
36 against manufacturers of tobacco products, if the revenues are
37 specifically earmarked to reimburse the state and local
38 governments for the cost of treating individuals ~~with~~ *for*
39 tobacco-related illnesses and diseases.

(C) Any changes in the manufacturer's share of the California tobacco products market, as determined by the department.

(2) The adjustment of fees pursuant to this subdivision shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government Code.

(d) Within four months after the department adopts regulations pursuant to subdivision (b), every local government shall submit to the department a report on its tobacco-related health care costs for the previous year.

(e) (1) The State Board of Equalization shall administer and annually collect the fee imposed pursuant to this section in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(2) The board shall assess the fee imposed pursuant to this section commencing April 1, 2005, and annually thereafter.

(3) The fee shall be deposited in the Tobacco-Related Health Care Costs Trust Fund established pursuant to Section 105530.

(f) This section shall not apply to, and no fee shall be assessed upon, any retailer of tobacco products, unless the retailer is also a manufacturer of tobacco products.

(g) No fee shall be assessed pursuant to this section upon any person that can demonstrate, as determined by the department, that his or her business did not contribute in any manner to tobacco-related illnesses and diseases.

105525. Fees imposed pursuant to this chapter shall not be deductible as ordinary business expenses or as any other classification of expenses or costs under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the ~~Bank and Corporations~~ *Corporation* Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

CHAPTER 3. FEE ALLOCATION

105530. There is hereby created the Tobacco-Related Health Care Costs Trust Fund in the State Treasury. The fund shall consist of the State Account and the Local Government Account. Moneys in the fund shall, upon appropriation by the Legislature, be

1 expended to reimburse the state and local governments for the
2 costs of treating individuals ~~with~~ *for* tobacco-related illnesses and
3 diseases.

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